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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

IN RE:

JAMES FRANKLIN MILLS
JULIANE FLEIHER MILLS
DEBTOR(S)

VW CREDIT, INC.
MOVANT
VS
JAMES FRANKLIN MILLS
JULIANE FLEIHER MILLS
AND WALTER O'CHESKEY, TRUSTEE
RESPONDENTS

CASE NO. 111-10043-RLJ-13

CHAPTER 13

IF A TIMELY ANSWER IS FILED
A FINAL HEARING ON THIS
MOTION WILL BE HELD AT:
HEARING DATE: OCTOBER 2, 2013

HEARING TIME: 11:00 AM

MOTION FOR RELIEF FROM AUTOMATIC STAY OF ACT AGAINST PROPERTY

NOTICE

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS ELECTRONICALLY FILED OR SUBMITTED ON DISKETTE TO THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT, 1205 TEXAS AVENUE, LUBBOCK, TEXAS, 79401-4002, BEFORE THE CLOSE OF BUSINESS FOURTEEN DAYS FROM THE SERVICE OF THIS MOTION. IF SERVICE IS BY MAIL, THREE ADDITIONAL DAYS ARE ALLOWED PURSUANT TO FED. R. BANKR. P. 9006(F).

ANY RESPONSE MUST BE IN WRITING, ELECTRONICALLY FILED OR SUBMITTED ON DISKETTE TO THE CLERK AND A COPY SERVED UPON COUNSEL FOR THE MOVING PARTY WITHIN THE TIME DESCRIBED ABOVE. IF NO RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED UNOPPOSED AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT.

IF A RESPONSE IS FILED, A FINAL HEARING ON THE MOTION WILL BE HELD AT 11:00 AM ON OCTOBER 2, 2013 IN, 1205 TEXAS AVENUE, LUBBOCK, TEXAS, 79401-4002. THE RESPONSE MUST CONTAIN THE INFORMATION REQUIRED BY N.D. TEX. L.B.R. 4001.1(B).

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now VW Credit, Inc. (hereinafter referred to as "Movant"), its successors and/or assigns, a secured creditor in the above-entitled and numbered case, by and through its attorneys, to file this Motion for Relief from Automatic Stay of Act against the Collateral ("Motion") against: James Franklin Mills and Juliane Flieher Mills

Debtor(s), and Walter O'Cheskey, duly appointed Chapter 13 Trustee, hereinafter referred to respectively as "Debtor(s)" and "Trustee." In support thereof, Movant would respectfully represent to the Court as follows:

1. On February 10, 2011, Debtor(s) filed a voluntary petition under Chapter 13 of the Bankruptcy Code. Subsequently, Walter O'Cheskey was appointed Trustee in this Chapter 13 case, qualified and is duly acting in such capacity.
2. This Court has jurisdiction of this Motion by virtue of 11 USC §§105, 361 and 362 and 28 USC §§1334 and 157.
3. Movant is the holder of a Retail Installment Contract and Security Agreement, Loan Number xxxxx6930, (the "Agreement"), signed by James F. Mills and Julianne Mills. Movant is secured under the Agreement by a properly perfected security interest in a 2006 VW BEETLE, VIN: 3VWRF31YX6M309859 (the "Collateral"). A true and correct copy of the Agreement, as well as the documents evidencing the security interest of Movant in the Collateral, are attached hereto as Exhibits "A" and "B".
4. By virtue of the Agreement, Movant is the holder of a secured claim against the Debtor.
5. Movant alleges that the automatic stay should be lifted for cause in that it lacks adequate protection of its interest in the Collateral as evidenced by the following:
 - a. Debtor(s) are in default on his/her obligations to Movant in that Debtor(s) have failed to make installment payments when due and owing pursuant to the terms of the Agreement
 - b. As of July 17, 2013, the total indebtedness was \$6,482.46.

| | |
|---|------------|
| Debtor(s) are in default on 5 contractual payments totaling \$1,393.71: | |
| 03/15/2013 to 03/15/2013 (1) at \$264.23 each = | \$264.23 |
| 04/15/2013 to 07/15/2013 (4) at \$282.37 each = | \$1,129.48 |
 - c. Debtor(s) are unable to demonstrate that the Collateral is adequately insured post-petition.
 - d. It is the Debtor(s) intention to surrender the Collateral.
6. According to the publication commonly relied upon by banks, insurance companies, government agencies, and dealers in determining the value of collateral, the retail market value of the Collateral at time the Debtor(s) commenced this bankruptcy proceeding was approximately \$12,325.00. The present retail market value of the Collateral is \$9,650.00.
7. The value of the Collateral securing Movant's claim has declined since petition filing.
8. The Debtor(s) has no equity in the Collateral.

9. Movant has had to retain counsel to represent it before this Court and is incurring attorneys' fees and court costs for which it is entitled to reimbursement under the terms of the Agreement.

10. For the above and foregoing reasons, Movant asserts cause exists sufficient to waive the requirement of Bankruptcy Rule 4001(a)(3), therefore allowing Order to be effective upon this Honorable Court's signature.

WHEREFORE, PREMISES CONSIDERED, Movant prays that, upon hearing of this Motion, said automatic stay be terminated as to the claim of Movant, its successors and/or assigns, to permit Movant, its successors and/or assigns, to seek its statutory and other available remedies; that Movant, its successors and/or assigns, be permitted to obtain possession of the Collateral to the exclusion of Debtor(s); alternatively, Movant, its successors and/or assigns, be afforded adequate protection by including, but not limited to, having all payments presently due in this proceeding to Movant being brought current; and that Movant be granted such other and further relief, at law and in equity, as is just.

Respectfully submitted,
Buckley Madole, P.C.

/s/ Sammy P. Hooda

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Attorney for VW Credit, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following parties in interest either via pre-paid regular U.S. Mail or via electronic notification on or before the 23 day of
August 2013:

Debtor's Attorney
Pamela Jean Chaney
Monte J. White & Associates, P.C.
American State Building 402 Cypress, Ste. 310
Abilene, Texas 79601

Debtor
James Franklin Mills
210 Brown Ave.
Tuscola, Texas 79562

Debtor
Juliane Flierher Mills
210 Brown Ave.
Tuscola, Texas 79562

U.S. Trustee
1100 Commerce Street, Room 976
Dallas, Texas 75242

Chapter 13 Trustee
Walter O'Cheskey
6308 Iola Avenue
Lubbock, Texas 79424

Barrett Daffin Frappier Turner & Engel, LLP
1900 St. James Place Suite 500
Houston, Texas 77056

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/s/ Sammy P. Hooda
Cristina Platon Camarata
Michael J. Burns
Sammy P. Hooda